

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

LANCE I. COLLIER
Plaintiff,

v.

OFFICER MITCHELL, ET AL.
Defendants.

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No. 3 07 0016
Judge Echols

M E M O R A N D U M

The plaintiff, proceeding pro se, is a pre-trial detainee at the Rutherford County Adult Detention Center in Murfreesboro, Tennessee. He brings this action pursuant to 42 U.S.C. § 1983 against Officer Mitchell, a member of the Murfreesboro Police Department; and Ben McFarlin, Jr., a General Sessions Judge in Rutherford County; seeking injunctive relief and damages.

The plaintiff is currently awaiting trial on unspecified charges. He alleges that Judge McFarlin has denied him a speedy trial. The plaintiff also claims that Officer Mitchell "lied under oath before the court."

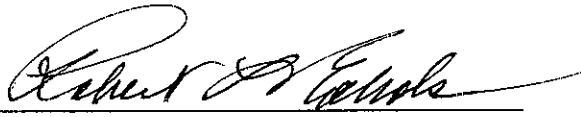
In order for the plaintiff to obtain § 1983 relief for an allegedly unconstitutional conviction or confinement, he must prove that the conviction or confinement has been reversed on direct appeal, expunged by executive order, declared invalid by a state tribunal authorized to make such a determination, or called into question by a federal court's issuance of a writ of habeas corpus. Heck v. Humphrey, 512 U.S. 477, 114 S.Ct. 2364, 2372, 129 L.Ed.2d

383 (1994) . Given the plaintiff's status as a pre-trial detainee, he has not yet had an opportunity to test the validity of his confinement in either a state or federal court. Therefore, the plaintiff's claims are not yet cognizable in a § 1983 action.

In the absence of a cognizable claim, the plaintiff has no arguable basis in law or fact which would entitle him to relief. Consequently, this action is frivolous within the meaning of 28 U.S.C. § 1915(e)(2). Neitzke v. Williams, 490 U.S. 319, 109 S.Ct. 1827, 1832, 1833, 104 L.Ed.2d 338 (1989).

A district court possesses the authority to dismiss frivolous actions. Brooks v. Seiter, 779 F.2d 1177, 1179(6th Cir. 1985). Accordingly, this action shall be dismissed as frivolous.

An appropriate order will be entered.


Robert L. Echols
United States District Judge